



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,528	02/19/2002	Koichi Kimotsuki	122.1489	1664

21171 7590 05/25/2004

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER

KIM, ELLEN E

ART UNIT	PAPER NUMBER
----------	--------------

2874

DATE MAILED: 05/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/076,528

Applicant(s)

KIMOTSUKI ET AL.

Examiner

Ellen Kim

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7 and 9-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,4,5 and 10-12 is/are allowed.
- 6) ☒ Claim(s) 3,7,9 and 13-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 3 and 13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Koga et al [USPAT 5,617,234].

Koga et al disclose multiwavelength simultaneous monitoring circuit employing arrayed-waveguide grating comprising an AWG 34 [fig. 4], light emitting means, light detecting means for monitoring the pilot signal λ_0 , and a temperature control circuit 21.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 7, 9, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koga et al as applied to claim 3 above, and further in view of Iwaoka et al [USPAT 4,893,353].

Koga et al discloses every aspect of claimed invention except for the light emitting means which is a wavelength tunable light source having a wavelength locker function, and generates signal light whose wavelength is swept within the bandwidth of the port, or a plurality of light sources.

Iwaoka et al disclose an optical sweeper comprising a wavelength tunable light source having a wavelength locker function, and generates signal light whose wavelength is swept within the bandwidth of the port, and a plurality of light sources [fig. 13].

It would have been obvious to the ordinary skilled person in the art at the time the invention was made to modify Koga et al's device to include the wavelength tunable light source having a wavelength locker function, and generates signal light whose wavelength is swept within the bandwidth of the port, and a plurality of light sources as shown in Iwaoka et al's reference for the purpose of having a high accuracy and high stability in frequency of output [abstract].

In re claims 7 and 14, the detecting means detecting the amount of fluctuation in the filter characteristics of the port by detecting the swept signal light is inherently shown by the Iwaoka et al's device.

In re claims 9 and 15, the detecting means inherently shown by Iwaoka et al's device. Iwaoka et al show in column 4, lines 32-47 that comparison is done between pluralities of light sources.

Allowable Subject Matter

Claims 1, 4-5, and 10-12 are allowed.

The following is an examiner's statement of reasons for allowance: the prior art does not disclose or suggest a wavelength multiplexing optical apparatus comprising all the specific elements with the specific combination including a light detecting means for monitoring the pilot signal extracted from a wavelength multiplexed signal output from the output port as set forth in claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Further references of interest are cited on Form PLO-892, which is attachment to this office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ellen Kim whose telephone number is (571) 272-2349. The examiner can normally be reached on Monday and Friday.

Ellen E. Kim
Primary Examiner
May 18, 2004/EK

